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*Representing the United States of America*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAN ROUVEN FUECHTENER,

Defendant.

Case No. 2:16-cr-00100-GMN-CWH

Government's Objection to Defendant's  
"Emergency Request for Release of  
Funds" ECF No. 277

The United States of America, by and through the undersigned, submits this timely objection to the Defendant's *Emergency Request for Release of Funds*. ECF No. 277. The Government respectfully requests that the Court deny the Defendant's motion as it is premised on a misrepresentation of the Magistrate Judge's Order restraining funds for the purposes of "fines, forfeiture, and restitution."

In 2017, after the Defendant pleaded guilty and agreed to pay restitution to the victims of his crimes, the Defendant attempted to sell his home without the

1 Government knowing to avoid paying money to his victims. By pure serendipity, the  
2 Government learned of the Defendant's schemes done in concert with his husband  
3 to deprive the victims of his crimes their restitution. Through multiple rounds of  
4 briefing, the Court learned that the Defendant had intended to remove \$1,238,568.82  
5 from the reach of the Government and his victims by giving the funds to his  
6 husband/co-conspirator, Frank Alfter, to immediately transfer the funds to  
7 Germany. After several hearings, the Magistrate Judge agreed with the  
8 Government, and ordered that \$975,300 (\$460,000 in restitution, \$15,300 in  
9 assessments, and \$500,000 in statutory fines) of the \$1,2038,568.82 be held by the  
10 Court in trust "to prevent the frustration of collection of the anticipated restitution  
11 order and further the court's exercise of its jurisdiction over sentencing by ensuring  
12 assets are available to satisfy the pending restitution order." ECF No. 180, at 3. The  
13 remaining \$263,268.82 went to the Defendant. The Defendant objected to the Report  
14 and Recommendation based only on his confidence that the Court would allow him  
15 to withdraw his guilty plea. ECF No. 185, at 1.

16 The Defendant now misrepresents the Court's order by arguing that he is only  
17 asking for access to "his funds held in trust for defense purposes."<sup>1</sup> ECF No. 277, at  
18 2. In truth, the Defendant is asking for access to funds held in trust for the victims  
19 of his crimes to help make them whole for the harm the Defendant's actions have  
20 caused. While the Defendant now acts coy about the amount he is requesting,

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23 <sup>1</sup> The Defendant also seeks money for appeal. The Court should reject this argument  
as well because the Defendant has waived his appellate rights in the plea agreement.

1 defense counsel asked the undersigned to agree to release at least **\$25,000-30,000**  
2 that the Court has designated **for the victims**, to enable defense counsel to **begin**  
3 **preparing for a single sentencing hearing.**

4 The Court should expressly reject the impudent claim of the Defendant that  
5 this money is “his money” to do with as he pleases, and that he owes the Court no  
6 explanation or accounting of how he intends to use it. Considering that the  
7 Defendant could again hire multiple highly-priced criminal defense attorneys and  
8 squander every penny placed in trust for victims, the Court should deny the motion.

9 Instead of further burdening the victims, the Court should require the  
10 Defendant to pay for his defense costs from the substantial amount of money that  
11 was released to him (\$263,268.82); require the Defendant to utilize the “few hundred  
12 thousand dollars” left in the Defendant’s trust, as noted in the PSR, that netted from  
13 the sale of another home he owned; or require the Defendant liquidate other assets  
14 listed in the PSR such as his \$80,000 Jaguar. Alternatively, if the Defendant persists  
15 in his claim of indigency, the Court should require the Defendant to disclose his  
16 assets to determine indigency like every other criminal defendant who is seeking  
17 CJA funds for his defense. The Government notes that once the Court determines  
18 that the Defendant is found indigent, he is not entitled to counsel of his choosing.  
19 The Defendant should be assigned counsel and treated as every other indigent  
20 defendant. The Government formally requests the ability to review the Defendant’s  
21 sworn affidavit seeking appointed counsel to determine if additional charges for  
22 perjury are appropriate.

1 For the reasons stated above, the Government respectfully requests that this  
2 Court deny the Defendant's emergency request for release of the funds that were  
3 never set aside for this purpose.

4 DATED this 23rd day of July, 2018.

5 Respectfully submitted,

6 DAYLE ELIESON  
7 United States Attorney

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9 ELHAM ROOHANI  
10 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the United States Attorney's Office. A copy of the foregoing was served upon counsel of record, via Electronic Case Filing (ECF).

**DATED** this 23rd day of July, 2018.

/ s / Elham Roohani

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ELHAM ROOHANI  
Assistant United States Attorney